

Dear Commissioners:

These comments are filed on behalf of KZMU, Moab Public Radio in Moab, Utah.

The comments are in two parts. Part one contains comments that are applicable to any size radio station in any size market. Part two contains comments that are applicable to KZMU, a small station in a small rural market.

Part One

Given the volume and breadth of the FCC's enforcement actions under the existing indecency complaint process, it would appear that there has been no problem in enforcing the indecency requirements. The FCC's proposed requirements, even if they were not seriously flawed in other respects, are a solution in search of a problem that does not exist. On these grounds alone, the proposed rule is unnecessary.

The proposed rule is also skating on very thin Constitutional ice. The burden should be on the listener to specify with great detail when an alleged obscene broadcast occurred and what the nature of the alleged obscenity was. If a complete broadcast record of all material aired between 6 a.m. and 10 p.m. is available, it will be too easy for a listener to complain that they heard something obscene on Sunday afternoon and for the FCC to then require the broadcaster to hand over many hours of recordings. Such a fishing expedition would be Constitutionally impermissible and would be resisted on First Amendment grounds.

The FCC requested comments on requiring "all digital streams, including programming offered on a subscription basis" to be retained. This is even more Constitutionally suspect than retention of over-the-air non-subscription material. One reason subscribers pay money to receive such broadcasts is to escape the homogenized pablum that the FCC's misguided media monopoly policies have foisted on the American public. As the Chairman of the FCC so frequently chants, let the free market rule. If people are offended by what they hear on subscription services, they can change channels, turn the device off, or, if they are really annoyed, cancel the service. For the government to interpose itself between listeners' minds and information is unacceptable in a free society.

For the above reasons, we urge the Commission to not adopt the proposed rules in any markets and for any stations.

Part Two

KZMU is a small station in a small rural area. We are a non-commercial station staffed by three full time equivalent paid employees and about 75 volunteers. Our total annual budget is about \$78,000. We currently do not record any programming.

The financial and staffing burden that the proposed rules would impose on us would require that we divert monies from our attempts to develop local newscasts and public affairs programming to

purchasing and maintaining equipment to record broadcasts and paying someone to catalog, maintain, and retrieve material. Moab Public Radio believes that we can best serve our listening public and meet our license obligations by providing innovative local news and public affairs programming rather than by recording and retaining broadcast material.

While the overwhelming majority of our programming is locally produced, we do broadcast some syndicated material. For these programs, we would have to renegotiate our agreements with the producers to allow our retention of the material. We would be forced to choose between the chore of renegotiating the agreements or ceasing to broadcast the material. Because of our isolation, we are one of the few over-the-air sources of information and public affairs. It would be a severe loss to our community if we had to stop offering this material.

In summary, because of our small size and limited budget and facilities, the proposed rules would impose an undue burden on Moab Public Radio. If the Commission does adopt the proposed rule, or something similar, we urge you to exempt small stations from this burdensome regulation. It is difficult enough for us to meet our community's needs with our limited resources without having to deal with yet another layer of bureaucracy.

Respectfully,

Jeff Flanders
Manager, KZMU/Moab Public Radio